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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,007	12/28/2001	Michael Boyd	1-72609	1093

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MACMILLAN, SOBANSKI & TODD, LLC  
ONE MARITIME PLAZA-FOURTH FLOOR  
720 WATER STREET  
TOLEDO, OH 43604

EXAMINER

VU, STEPHEN A

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 03/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/035,007	<b>Applicant(s)</b> BOYD ET AL.	
	<b>Examiner</b> Stephen A Vu	<b>Art Unit</b> 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 10-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 16-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5,9, and 19-20 stand rejected under 35 U.S.C. 102(b) as being anticipated by Chang.

Chang shows a vehicle seat assembly comprising a seat back (205), a seat bottom (203) attached to the seat back, and a mounting assembly (125).

With claim 2, the seat back is attached to the seat bottom via a recliner mechanism (210).

With claim 3, the mounting assembly has a receiving portion, a lower portion mounted on the vehicle floor, and a second recliner mechanism.

With claim 4, the seat back is attached to the seat bottom via another recliner mechanism.

With claims 5 and 20, a seat track mechanism (119) is mounted on the vehicle floor and attached to the mounting assembly.

With claim 9, a locking mechanism is provided.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3636

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 6-7 and 21-22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Chang in view of Abu-Isa et al.

Chang discloses the claimed invention except for the seat assembly to have an elastomeric material stretched between the outer perimeter of the seat bottom and seat back. Abu-Isa et al teach a seat comprising the seat bottom and seat back having an elastomeric material between the outer perimeters. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the seat bottom and seat back of Chang's invention to have an elastomeric material, in order to provide absorption of impacts and vibrations and deform to fit the shape of the body of the user.

Claim 8 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Chang in view of Rivard et al.

Chang discloses the claimed invention except for the seat assembly to include a movable lumbar support. Rivard et al teaches a movable lumbar support (22). It would have been obvious to one of ordinary skill in the art at the time the invention was made

to use a movable lumbar support of Rivard et al's invention with the Chang's seat assembly, in order to comfortably support the lower back of a person.

Claims 16-18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Chang in view of Nishiyama.

Chang discloses the claimed invention except for the seat portion to have side bolsters. Nishiyama teaches a seat frame comprising of side bolsters (14b). It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ side bolsters of Nishiyama's invention to the seating portion of Chang's seating assembly, in order to retain the seat bottom within the framework of the mounting assembly.

### ***Response to Arguments***

Applicant's arguments filed December 18, 2003 have been fully considered but they are not persuasive. It's the examiner's position that the following claims stand rejected. Claims 1-5,9, and 19-20 stand rejected under 35 U.S.C. 102(b) as being anticipated by Chang. Claims 6-7 and 21-22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Chang in view of Abu-Isa et al. Claim 8 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Chang in view of Rivard et al. Claims 16-18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Chang in view of Nishiyama. The applicants have argued that the prior art of Chang does not disclose the applicants' claimed invention. Specifically, on page 7, lines 1-2, applicants contend that Chang does not show "a mounting assembly defining an occupant seating portion".

The examiner has interpreted that element 125 to be considered as a mounting assembly, and thus connected to seat platform (211). This clearly satisfies the claim limitation. In addition, the applicants have taken the position that the seat of Chang is not "releasably attached to the mounting assembly". The seat is considered to be removable from the mounting assembly. One skilled in the art would understand that the seat and mounting assembly were not integrally formed together as one piece. Rather, the seat and mounting assembly were assembled together. Therefore, Chang meet this claim limitation.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen A Vu whose telephone number is 703-308-1378. The examiner can normally be reached on M-F from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Stephen Vu  
March 25, 2004



Peter M. Cuomo  
Supervisory Patent Examiner  
Technology Center 3600